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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/617,239	07/14/2000	John Burwell	2549-098-27	5372

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EXAMINER

MEREC, JOSEPH C

ART UNIT PAPER NUMBER

3727

DATE MAILED: 05/20/2004

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/617,239

Applicant(s)

BURWELL ET AL.

Examiner

Joseph C. Merek

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 February 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2,4-8,13,19,21-23 and 36 is/are pending in the application.
- 4a) Of the above claim(s) 9-12, 24-35 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 2,4-7,13,19,21-23 and 36 is/are rejected.
- 7) ☒ Claim(s) 8 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____

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DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 36 is rejected under 35 U.S.C. 102(b) as being anticipated by Frey, III (US 3,685,682). Regarding claim 36, see Fig. 2 where the claimed structure is shown. The dome is 14 and the riser is 26. The sealing band is 34 that is sealed to the dome and the riser via mastic 36. The seal is hermetic. The fillet 28 is adhered to the dome or the riser only weakly. This is a relative term and is satisfied by the reference.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2, 13, 19, 21, 36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Asmus (US 3,748,816) in view of Bonnamy (US 495,775).

Regarding claims 21 and 36, Asmus teaches the sealed closure on the tank but does

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not teach that the closure is domed. Bonnamy as seen in Figs. 1-7, teaches a similar device where the closure is domed. It would have been obvious to employ the domed closure of Bonnamy in the device of Asmus to provide room for expansion or an alternative design for the closure. The fillet is 25 and is not adhered to the riser 11 or the sealing dome 23. The band 30 makes the principle seal for the device. Claim 36 allows for a fillet that is not bonded to the riser or the dome. Regarding claim 2, see Col. 3, lines 19-28, where the dome can be outside the riser. Regarding claim 13, the dome has a circular circumferential shape. Regarding claim 19, the container or device of Asmus is capable of storing wastewater. There is not structure that is required by this limitation that is not in the combination of references.

Claims 4 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Asmus in view of Bonnamy as applied to claim 2 above, and further in view of Johnston et al (US 3,920,254). Regarding claim 4 and 5, the modified device of Asmus does not teach the third surface or the approximately forty-five degrees. Johnston et al as seen in Fig. 3, teaches a seal with a third surface that is approximately 45 degrees. It would have been obvious to employ the seal of Johnston et al in the modified device of Asmus to provide a secondary seal or to properly position the fillet.

Claim 6 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Asmus in view of Bonnamy as applied to claim 21 above and further in view of Hammond (US 4,562,934). Regarding claim 6 and 7, the modified device of Asmus does not teach the fiberglass material. Hammond teaches a container made of joined

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fiberglass parts. It would have been obvious to employ the fiberglass of Hammond in the modified device of Asmus to provide an inert container as taught by Hammond.

Claim 22 is rejected under 35 U.S.C. 103(a) as being unpatentable over Asmus in view of Bonnamy as applied to claim 21 above, and further in view of Buckley (US 2,893,590). Regarding claim 22, the modified device of Asmus does not teach the fillet is putty. Buckley teaches that putty can be used for a gasket. It would have been obvious to employ the putty of Buckley in the device of Asmus to provide an alternative material for the fillet or gasket.

Claim 23 is rejected under 35 U.S.C. 103(a) as being unpatentable over Asmus in view of Bonnamy as applied to claim 21 above, and further in view of Poquet et al (US 6,530,575). Regarding claim 22, the modified device of Asmus does not teach the fillet is cardboard. Poquet et al teaches that cardboard can be used for a gasket. It would have been obvious to employ the cardboard of Poquet et al in the device of Asmus to provide an alternative material for the fillet or gasket.

Allowable Subject Matter

Claim 8 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

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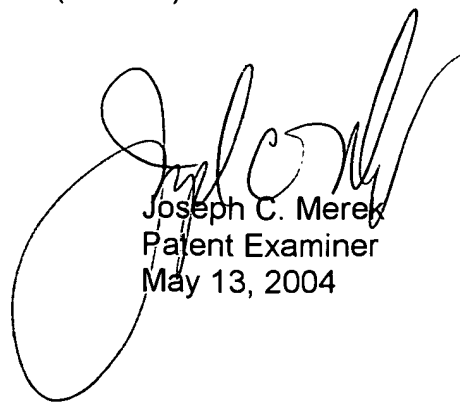
Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Gilbu, Bozek, Hammer, and Ellis are all cited for teaching sealing bands.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph C. Merek whose telephone number is (703) 305-0644. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lee Young can be reached on (703) 308-2572. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Joseph C. Merek
Patent Examiner
May 13, 2004